

# **Report of the Mayor's Committee on Integrity and Trust in Local Government**

"It is time for the City Council to listen to us."

--A Citizen's Comment, Public Hearing of the  
Mayor's Committee on Integrity and Trust  
In Local Government, Palo Alto College,  
January 8, 2003

## **I. Introduction**

The organizational meeting of the Mayor's Committee on Integrity and Trust in Local Government was held on October 23, 2002 in the Media Briefing Room at City Hall. At this meeting Mayor Edward D. Garza charged the Committee with providing specific recommendations to correct weaknesses in existing ethics ordinances and codes with the ultimate goal of strengthening a culture of service, integrity, trust and accountability that instills public confidence. The Committee was not charged with any investigative authority and will not comment on issues regarding any specific individuals or alleged misconduct. Former Mayor Lila Cockrell was designated as Chair, and subsequently Dr. Charles Cotrell was named Vice Chair.

To carry out this charge, the Committee was divided into four research teams:

The Ethics Code Review Subcommittee was charged with examining the City Ethics Code. The members of this subcommittee are General William McBride, U.S.A.F. (Ret), Coordinator, Auxiliary Bishop Patrick Zurek and Diane Cortez.

The Discretionary Contracts and Zoning Subcommittee was asked to review the City's procedures and practices in those areas. The members of this group are Dr. Tessa Martinez Pollack, Coordinator, former councilman Bob Ross, Carlos Montemayor and Deanna Frisk.

The Campaign Finance Subcommittee investigated the possibility of developing local municipal ordinances to regulate campaign

contributions. The members of this group are Dr. Charles Cotrell, Coordinator, Dr. Richard Gambitta, Dr. Morris Stribling and Wayne Alexander.

The Character Education and Citizens' Participation in Elections Subcommittee was charged with examining the issue of training regarding matters of character and ethics. The members of this group are Dr. Ana "Cha" Guzman, Coordinator, Reverend Kenneth Allen and Reverend Charles Johnson.

Over the past three months, the full Committee and its four research teams have interviewed city staff, current and former city officials, members of the business community and citizen groups. The Committee sessions have all been open to the public so that interested citizens could observe the process of Committee discussions and decisions. Additionally, the Committee felt that its mission also required giving citizens an opportunity to present their views, and, for that reason, it convened four Town Hall meetings in different parts of the city. The minutes of the Town Hall Meetings are enclosed in this report as **Attachment A**. The Committee also received written statements from organizations and individuals that it took into consideration.

The members of the Committee know that the majority of local public officials are conducting themselves in an honorable manner, but we need to report that a substantial degree of concern exists on the part of the citizens, not only in reaction to recent charges regarding some public officials, but also in their perception that public officials are not listening to them or taking their feelings or comments into account when making decisions.

The recommendations in this report are intended to be specific items that the City Council could consider and adopt by ordinance. The degree of public anger and the current cost of the erosion of public trust and confidence in city government should not be underestimated. The Committee members strongly recommend expedited City Council consideration and adoption of the recommendations contained in this report.

The Committee is now ready to submit its report to Mayor Garza, and we will begin with two recommendations that are not specific to any one of the four research teams. These recommendations relate directly to the input of citizens at the public meetings.

## **II. Short-Term Recommendations**

### **A. Conduct at City Council Meetings**

The City Council, in its regular meetings, has an opportunity to set an example of openness and responsiveness to the citizens of our City, which, in turn will increase trust in government. Council meetings are not only seen by those persons in attendance, but by the larger audience having access on Time Warner Cable. As a basic premise, councilmembers need to exhibit attentiveness and courtesy to persons making presentations at the podium, whether that person is a staff member or a member of the public speaking for or against an agenda item.

There are certain current practices that citizens have stated give the appearance of inattention or even discourtesy to the person making the presentation. These practices include frequent moving about by councilmembers, absence from their seats for prolonged periods, and occasionally swiveling in their seats, with backs to the public, while talking to other councilmembers.

However, the practice that citizens mention most frequently is that councilmembers spend too much time on their telephones during the council session, leading to the perception that all of the important business had been decided ahead of the public meeting, or that an interested party on an upcoming council vote was lobbying the councilmember.

### **B. Recommendations:**

1. Councilmembers should, at all times, display courtesy toward the presiding officer, to each other, and to those individuals in attendance, being mindful that body language is also a part of how the citizens perceive the council.
2. Councilmembers will need to occasionally take breaks during a council session, but are urged to return to their places as soon as possible so that the agenda items under discussion receive the attention from as many councilmembers as possible.

3. Councilmembers should request that the phones be removed from council places at the council table. If a councilmember has an urgent need to make a phone call, the councilmember should step outside for a brief period and make the call.

### **III. Long-Term Recommendations**

This Committee anticipates a significant change in the accessibility and accountability of San Antonio's electoral and decision-making processes if the recommendations set out in this report are adopted. However, the abbreviated timeline under which the Committee has operated and the complexity of the issues at hand made it virtually impossible to reach sound and credible conclusions about some important processes and structures contained in the San Antonio City Charter.

The Committee members recommend unanimously that a comprehensive and open public dialogue on many key charter issues be continued. To that end, we recommend that the City Council appoint a charter revision committee representing a broad array of citizens, to include the following issues within the committee's scope of examination:

- 1) the desirability of extending or eliminating term limits for city council and the mayor;
- 2) the desirability of eliminating the lifetime ban on those who have held office;
- 3) the desirability of salaries for council members and the mayor;
- 4) consideration of granting the City's Ethics Review Board independent authority to issue binding opinions and impose sanctions for violations of the Ethics Code;
- 5) establishing an independent elected office of Citizen's Trustee or Public Advocate, a salaried position with authority to conduct research, formulate initiatives, audit and administratively enforce municipal campaign finance regulations;
- 6) consideration of implementing publicly financed elections.

It should be noted that the majority of persons offering comments favored a relaxation or extension of term limits and supported pay for the Mayor and Councilmembers.

We recommend that the findings and efforts of this Committee provide a beginning context for a charter revision commission. Thus, the work reflected within this report and the involvement by hundreds of citizens through interviews and public hearings will not be lost. If public discussion and debate continues through a charter revision commission, the effort to ensure an accessible and responsive system of government that serves all of San Antonio's citizens fairly will not be discontinued or shelved.

Many times in the recent past, the findings and recommendations of citizen commissions have been ignored or forgotten, adding to a sense of futility on the part of the public. The leadership of Mayor Garza and the Council is imperative if public discussion and debate on these issues is to lead to long-term solutions.

The City's Charter was originally adopted in 1951. The commission should evaluate how the current Charter meets our City's needs in the 21<sup>st</sup> century, and recommend any needed revisions for consideration by the citizens. The voters approved the last city charter amendments on November 6, 2001, and there is a required two-year lapse of time before other charter amendments could be considered. Charter amendments, therefore, could be considered at the November 6, 2003 general election.

#### **IV. Subcommittee Reports**

We will now proceed, in turn, to the recommendations approved by the full Committee that emerged from the four research teams:

1. The Ethics Code Review Subcommittee
2. The Disciplinary Contracts and Zoning Subcommittee
3. The Campaign Finance Subcommittee
4. The Character Education and Citizens' Participation in Elections Subcommittee.

## **V. Ethics Code Review Subcommittee**

The charge to the Mayor's Committee on Integrity and Trust in Local Government was to provide "specific recommendations that correct weaknesses in existing ethics ordinances and codes, with the ultimate goal of strengthening a culture of service, integrity, trust and accountability that instills public confidence". In accordance with this charge, the Ethics Code subcommittee has reviewed the Ethics Code of the City of San Antonio. The subcommittee has met ten times and has consulted with appropriate past and current city officials, individuals who drafted the Code, members of the Ethics Review Board and other informed citizens.

The subcommittee believes the Ethics Code is a useful document in its present form and does not need to be replaced. It has been reviewed carefully by many well-informed citizens and is less than two years old. However, the subcommittee has also concluded it can be improved and we submit the following proposed revisions to the Code and offer additional recommendations, which are as important as the proposed revisions.

A redline version of the current Ethics Code with these recommendations is included as **Attachment B**.

### **A. Proposed Revisions to the Ethics Code and Additional Recommendations**

(Additions are underlined; Strike-through are deletions)

(Page numbers are listed for reader's benefit)

\*\*\*\*\*

#### **Part A: Declaration of Policy (Page 5)**

(Add as a new paragraph into Part A: Declaration of Policy after the first paragraph of Section 1 Statement of Purpose and before Section 2 Definitions)

Appearance of Impropriety. Public service is a public trust. All city officials and employees are stewards of the public trust. They have a responsibility to the citizens of San Antonio to enforce the City Charter and the associated ordinances and codes. To ensure and enhance public confidence in city government, each city official must not only adhere to the principles of ethical conduct set forth in this code and technical compliance therewith, but they must scrupulously avoid the appearance of

impropriety at all times.

*Rationale: This insert is recommended only as a reminder that perception is as important as reality in gaining respect and trust. The Ethics Code mentions minimizing the risk of any appearance of impropriety in only two places – but the subject is not emphasized. Our subcommittee believes there is a general lack of sensitivity on the part of city officials and employees to minimize the appearance of impropriety -- and it appears some believe that if an action is legal, there is no harm. Numerous examples can be provided.*

\*\*\*\*\*

Part B: Present City Officials and Employees, Section 3 Gifts (Page 12)

(a) General Rule

(1) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit for himself or herself or his or her business:

- (A) that reasonably tends to influence or reward official conduct, or
- (B) that the official or employee knows or should know is being offered with the intent to influence or reward official conduct.

(2) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit, save and except for items received that are of nominal value ~~and meals in an individual expense of \$100 or less at any occurrence,~~ from:

- (A) any individual or business entity doing or seeking to do business with the City; or
- (B) any registered lobbyist or public relations firm; or
- (C) any person seeking or advocating on zoning or platting matters before a city body.

*Rationale: The existing policy permits unlimited gifts and meals under \$100 for city officials and employees. Our subcommittee strongly believes this policy is wrong and should be eliminated. The existing policy accepts and encourages the appearance of impropriety. If the government of the City of San Antonio wants to strengthen a culture of service, integrity and trust that instills public confidence, it should initiate essentially a “no gift” policy for all city*

*officials and employees. The Ethics Code contains special applications in Section 3(b) for exceptions to the “no gift” policy that appear appropriate and reasonable. It also appears appropriate that the gift policy should also include all individuals seeking changes in zoning or platting matters before a city body.*

\*\*\*\*\*

Part A: Declaration of Policy, Section 2 Definitions (Insert as a new definition) (Page 8)

*Nominal.* Nominal value is considered trifling or insignificant, less than ten dollars (\$10) market value.

*Rationale: The definition of the word “nominal” will help clarify the provision regarding the acceptance of gifts in Part B, Section 3(a)(2) which is essentially a “no gift” policy. This policy will permit acceptance of modest items, such as soft drinks, coffee and doughnuts, offered other than meals. It will also permit individuals to accept items of little intrinsic value such as greeting cards, small calendars, pens or pencils, T-shirts, etc.*

\*\*\*\*\*

Part B: Present City Officials and Employees, Section 3 Gifts (Page 13)

(b) Special Applications. (Add new paragraph (9))

(9) Ceremonial and protocol gifts presented to city officials from a foreign government or international or multinational organization and accepted for the City of San Antonio.

*Rationale: This adds a provision for the acceptance of official protocol gifts by city officials for the City of San Antonio*

\*\*\*\*\*

Part B: Present City Officials and Employees, Section 8 Political Activity (Page 16)

(b) Paid Campaigning. A city official or employee shall not accept any thing



of value, directly or indirectly, for political activity relating to an item pending on the ballot, if he or she participated in, or provided advice relating to, the exercise of discretionary authority by a city body that contributed to the development of the ballot item. ~~Any thing of value does not include a meal or other item of nominal value the city official or employee receives in return for providing information on an item pending on the ballot.~~

*Rationale: Our subcommittee believes it is improper for a city official or employee to receive any thing of value (gifts or meals) for providing information or advice concerning an item pending on the ballot.*

\*\*\*\*\*

Part B: Present City Officials and Employees, Section 10 Prohibited Interests in Contracts (Page 17)

(b) Financial Interest. An officer or employee has a prohibited “financial interest” in a contract with the city, or in the sale to the city of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:

- (1) the officer or employee;
- (2) his or her ~~parent, child, or spouse~~ spouse, sibling, parent, child or other family member with the first degree of consanguinity or affinity;
- (3) a business entity.....

*Rationale: Adding other family members with the first degree of consanguinity or affinity makes the list of individuals with a prohibited interest more complete.*

.....

Part B: Present City Officials and Employees, Section 10, Prohibited Interests in Contracts (Add new subparagraph (d)) (Page 18)

(d) Any contract or transaction already in place at the time the individual becomes an officer or employee subject to the prohibitions in Section 141 of the City Charter may remain in place until the contract expires or the transaction is completed without creating a prohibited financial interest for the officer or employee.

*Rationale: This provides a grandfather clause for employees who may become an officer for contracts already in place.*

\*\*\*\*\*

Part C: Former City Officials and Employees: Section 3 Prior Participation in Negotiating or Awarding of Contracts (Page 20)

A former city official or employee may not, within two (2) years of the termination of official duties, perform work on a compensated basis relating to a discretionary contract, if he or she personally and substantially participated in the negotiation or awarding of the contract. A former city official or employee, within two (2) years of termination of official duties, must disclose to the City Clerk immediately upon knowing that he or she will perform work on a compensated basis relating to a discretionary contract for which he or she did not personally and substantially participate in its negotiation or award. This subsection does not apply to a person who was classified as a city official only because he or she was an appointed member of a board or other city body.

*Rationale: There does not appear to be a need to require former members of boards, commissions, and committees to disclose this information if they were not involved in the negotiation or award.*

\*\*\*\*\*

Part E: Lobbyists, Section 1 Definitions (Page 26)

(j) *Municipal question* means a public policy issue of a discretionary nature pending or impending before city council or any board or commission, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term “municipal question” does not include the day-to-day application, administration, or execution of existing city programs and policies ~~such as permitting, platting, and zoning matters~~ (other than the amendment, modification or revision of the City of San Antonio Unified Development Code). It also does not include a matter that may be approved administratively without consideration by a Board or Commission. The term “municipal question” does include all discretionary matters before the

Board of Adjustment, the Planning Commission and the Zoning Commission and all advisory committees and subcommittees thereof.

*Rationale: In our research, our subcommittee has not been able to determine any rationale for excluding zoning matters from this definition. We believe matters before the Planning Commission and Zoning Commission should be included.*

\*\*\*\*\*

Part E: Lobbyists, Section 4 Registration (Add as a new insert) (Page 30)

(g) Ethics Code Briefing. During the registration process, the Ethics Compliance Officer shall offer a briefing to each new registrant on Part E Lobbyists of the Ethics Code and each shall be provided a copy of the Ethics Code.

*Rationale: A briefing on the Lobbyists section of the Ethics Code by the Ethics Compliance Officer should be helpful to each new lobbyist and in turn to all city officials and employees.*

\*\*\*\*\*

Part E: Lobbyists, Section 5 Activity Reports (Page 30)

(a) Required Disclosures. Except as required.....to the extent applicable:

(1).....

(6) each gift, benefit, or expenditure greater than ~~fifty dollars (\$50)~~ ten dollars (\$10) made to, conferred upon, or incurred on behalf of a city official or his or her immediate family by the registrant, or by anyone acting on behalf of the registrant, shall be itemized by date, city official, actual cost, and circumstances of the transaction;

(7).....

*Rationale: This change is to make the gift policy consistent throughout the Code.*

\*\*\*\*\*

Part E, Lobbyists, Section 6 Restricted Activities (Add new insert) (Page 33)

(j) Prohibited Lobbying. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, is prohibited from lobbying activities with city officials and employees during the period of request for proposal (RFP) evaluation and source selection of any project in which the lobbyist has an interest. If contact is required during this period, the appropriate city official or employee must initiate it.

*Rationale: This proposed revision was originally recommended by the BIH Commission in November 1998 and appears to be valid today. No revision was made to the Ethics Code as a result of the BIH Commission recommendation and the city staff has not developed an appropriate administrative directive.*

\*\*\*\*\*

Part E: Lobbyists, Section 6 Restricted Activities (Page 32)

~~(g) Legislator's Exclusion. At any time within sixty (60) days of a date when the Texas Legislature is to be in session, or at any time the Texas Legislature is in session, or when the Texas Legislature sits as a Constitutional Convention, m~~ Members of the Texas Legislature and their spouses, agents and employees are prohibited from lobbying as that term is defined in Section 1, subsection (h), of Part E (Lobbyists) of this Code.

*Rationale: Our subcommittee believes a potential conflict of interest and the appearance of impropriety exist any time a member of the Texas Legislature lobbies any city official or employee. Spouses have also been included in this section to make it more complete. Although it is possible there may be some constitutional questions associated with this proposed revision, we offer it as a policy to enhance the image of our city government.*

\*\*\*\*\*

Part E: Lobbyists, Section 6 Restricted Activities (Page 32-33)

~~(h) Lobbying by Council members. At any time within sixty (60) days of a date when the Texas Legislature is to be in session, or at any time the Texas Legislature is in session, or when the Texas~~

~~Legislature sits as a Constitutional Convention, m~~ Members of the City Council of the City of San Antonio are prohibited from lobbying members of the Texas Legislature on behalf of the Councilmember's private client(s) or employer. Councilmembers are not prohibited from meeting with members of the Texas Legislature on behalf of the City of San Antonio concerning legislation, administrative action, or any other action in their official city capacity. For the purposes of the subsection, lobbying means any oral or written communication (including an electronic communication) to a member of the legislative branch, made directly or indirectly, by a City Councilmember in an effort to influence or persuade a member of the legislative branch to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any legislation or administrative action on behalf of the Councilmember's private client(s) or employer.

*Rationale: A potential conflict of interest and the appearance of impropriety exist any time a councilmember lobbies a member of the Texas Legislature on any matter other than city business. Although it is possible there may be some constitutional questions associated with this proposed revision, we offer it as a policy that would enhance the image of our City Government.*

\*\*\*\*\*

#### Part E: Lobbyists, Section 6 Restricted Activities (Page 33)

(i) Limitation on Gifts. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not give gifts to a city official or a city employee or his or her immediate family, save and except for items received that are of nominal value ~~and meals in an individual expense of \$100 or less at any occurrence.~~

*Rationale: This proposed revision is to make the "no gift" policy consistent throughout the Code.*

\*\*\*\*\*

**B. Additional Recommendations.** In addition to these proposed changes to the Ethic Code, this subcommittee also would like to emphasize the following additional recommendations:

**1) Ethics Review Board.** The Ethics Review Board does not have the power to be effective. The board cannot require testimony from anyone other than a city official or employee, nor can it act independently from the City Council. The findings of the board are only advisory in nature and it can only recommend. To be effective, the board should have the power to subpoena and their findings should be binding with an appeal process through the court system. The board can only be given the powers they need through a change in the City Charter. Citizens raised the issue of the lack of authority of the Ethics Review Board on numerous occasions during the Town Hall meetings.

**Recommendation:** A charter review committee, when formed, should, among other issues, review and expand the powers of the Ethics Review Board to include the power to:

- Compel the production of sworn testimony, witnesses and evidence, and to recommend cases for prosecution;
- Issue binding opinions on the interpretation and application of the provisions of this section and of the implementing ordinances;
- Enforce its decisions through the assessment of civil fines or other civil remedies.

**2. Training.** When the Code of Ethics was approved by City Council, the City Attorney or a designated Ethics Compliance Officer was required to provide information about the code to every official and employee of the city. In addition, the code requires every new official or employee be provided information about the code within 30 days after assuming his or her new position. It appears these requirements have been met adequately. However, there is no formal requirement for a recurring training program for officials and employees on the subject of ethics and specifically the code.

**Recommendation:** A formal recurring training program on the subject of ethics in general and specifically the Ethics Code be established for all city officials and employees.

**3) Ethics Training for Councilmembers and Administrative Assistants (Contract Personnel)** - The initial orientation program for new councilmembers has contained a briefing on the Ethics Code. It is not clear how, or how effectively, this has been done in the past -- or how helpful it has been. It would appear to be useful and in the best interests of the councilmember and their administrative assistants, that a special briefing on ethics, simple courtesy, the risk of the appearance of impropriety, and the Ethics Code be given to meet the unique needs of our elected officials.

**Recommendation:** The councilmembers and their administrative assistants should be briefed on ethics and the Ethics Code on the assumption of his or her duties and annually thereafter. Certification that the briefing was received should be accomplished, similar to that required by all other city officials and employees.

**4) Forms Related to Disclosure Requirement of the Ethics Code.** The Ethics Code requires numerous forms be submitted to the City Clerk. All of the forms are open records and are available for review by the public. The City Clerk reviews the forms for timeliness and completeness and is the office of record. The forms are not reviewed or analyzed for compliance with the Code of Ethics.

**Recommendation:** Disclosure forms required by the Ethics Code be reviewed on a random basis and analyzed by the city staff for compliance with the Code of Ethics.

**5. Website for the City of San Antonio.** Information contained in the city government of San Antonio Website pertaining to campaign contributions and expenditures, lobbyist registration and the client lists, ethics complaints, advisory opinions and the Ethics Review Board opinions is hard to find and displayed in a manner that is difficult to understand. Numerous complaints on this issue were heard from citizens during the Town Hall meetings.

**Recommendation:** The Website for the City of San Antonio be reorganized to display campaign contributions and expenditures, lobbyist registration, lobbyist clients and ethics information in a more useful manner for the public.

## **VI. Character Education and Citizens' Participation in Elections Subcommittee**

The Character Education and Citizens' Participation in Elections Subcommittee was designated to examine the ethics training and character education provided to councilmembers, city employees and board members and commissioners. It was also asked to investigate the issue of citizen participation in government, particularly with respect to voting.

### **A. Findings Regarding Character Education**

Under Mayor Howard Peak's leadership, the City of San Antonio developed the character education program, Live It!, for use in the public schools and employers throughout the city. This program was intended to be a collaborative effort between schools districts and employers to develop and reinforce character traits important in the workplace. The traits emphasized are integrity, respect, dependability, fairness, caring and civic responsibility.

The Employer Education Council under the leadership of Tom Frost has promoted and endorsed this program. This education council has also worked with employers to implement the Live It! program for employee orientation and training throughout the city. The Bexar County school districts have also adopted this program into their character development curriculum.

The full Committee also reviewed the City's Customer First program. Customer First is a program implemented by the City Manager's Office in September 2001 to promote core values important to public service. The core values emphasized are integrity, quality of operation, service and teamwork. The program has employed the use of customer focus groups to monitor quality of service. Customer service is also a category of every city employee's yearly performance evaluation. The city has approximately 12,000 employees. Over 6000 employees received the Customer First training in its first year.

Findings regarding training on the Ethics Code are noted in the Ethics Code Review Subcommittee portion of this report.



## **B. Recommendations Regarding Character Education**

### **1. Mandatory and Periodic Ethics and Character Training**

Mandatory and periodic ethics training and character education should be implemented throughout all levels of city government, including “city officials and employees, persons doing business with the city, and lobbyists.” (Code of Ethics Part A, Section 1). As noted in the Ethics Code Review Subcommittee report, all employees and officials are given training on the Ethics Code as part of their orientation to city service. There is, though, no mandatory follow-up training. In accordance with the recommendations of the Ethics Code Review Subcommittee, each city official and employee, including councilmembers and their aides, should be required to attend mandatory periodic training on the Ethics Code. The city should give special consideration to using the Harvard Case Study Method for training councilmembers and senior staff.

In addition to or in conjunction with training on the Ethics Code, the city should also continue to implement and require character education. The training should be based on but not exclusive to the “Live It” Character Program. This training would ensure that council, staff, employees and community share the same basic ethics and character training.

### **2. Implement the Live It! Character Education Program for Orientation**

The city as an employer should adopt the Live It! character education program for its employee orientation so that the entire community can begin to coalesce around integrity and ethics in schools, government and in the workforce.

### **3. Implement the Use of an Oath**

The Subcommittee also recommends that the city adopt an oath to be taken by the members of City Council and the city employees. This oath should also be posted to be visible throughout the offices of the City of San Antonio. The subcommittee suggests adopting an oath based on the Fourteen Principles of Ethical Conduct established for federal employees under Executive Order 12674. These principles are set out in **Attachment C** to this report.

#### **4. Council Self-Analysis**

Every City Council should undertake a yearly self-study evaluation of how it is performing as a City Council and whether it has acted with civility and offered access to citizens on citywide interests.

#### **C. Findings Regarding Citizen Participation in Elections**

In order to ascertain whether voter participation had fluctuated in San Antonio, the Committee reviewed the voting patterns from 1993-2003. The data indicated that voting has decreased in all communities where term limits have been in place. As noted in the Long-Term Recommendations section of this report, this subcommittee supports consideration of term limits by any charter revision committee that may be formed in the future.

To promote citizen participation in government, the city should provide opportunities for citizens who are interested in running for City Council elections to learn about the responsibilities of the office and that the city provide a voluntary certification of candidates who participate in these educational experiences. The Houston Endowment has a similar and successful project underway to help individuals who want to run for school boards.

### **VII. Discretionary Contracts and Zoning Subcommittee**

The processes and procedures in zoning matters and discretionary contracts have been viewed by some citizens as fertile ground for improprieties in local government. However, some steps have been taken to ensure a new culture that citizens can trust. City staff is working on the final stages of the new, clear and comprehensive “Contracting Policy and Process Manual.” This Manual will standardize and “institutionalize” contracting processes, contractual documents and solicitation instruments that will be used throughout the city.

This subcommittee strongly believes that there is no single solution to restoring the public’s trust in the matters of zoning and discretionary contracts. Because democracy is a shared process with shared responsibilities, the subcommittee also believes that the restoration of integrity and trust in local government requires a multi-faceted approach. This approach resides in the power of the citizen vote, in the preparation

and accountability of elected officials and their staff, and in city employees who act with the greatest interests of the city. Hence, while these recommendations target zoning and discretionary contracts, they also overlap other research team recommendations and reach toward actions that foster these shared responsibilities in local government processes.

#### **A. Recommendations Overarching to Zoning and Discretionary Contracts Issues**

1. That standards be established to clearly define between the “informing” and “influencing” roles of lobbyists in zoning and discretionary contract processes;
2. That information pertaining to the identity of parties involved in a zoning issue or a discretionary contract be available to the public;
3. That a database be established and periodically reviewed for instances in which the City Council overturns:
  - a. staff and Zoning Commission recommendations that are consistent with the Master Plan;
  - b. staff recommendations on discretionary contracts.

The database should be made public and include a brief rationale regarding the reasons cited by each councilmember who voted to overturn staff and commission recommendation that are consistent with the Master Plan. With access to such information, the public may gain an understanding of overturned recommendations.

#### **B. Recommendations Regarding Zoning Matters**

1. That each councilmember appoint one member of the Zoning Commission by interests (e.g., the public, neighborhoods, developers, builders, architects, planners, business, environmental, educational). That recommendations shall be based on land-use criteria of the Master Plan;
2. That after a zoning request is filed, there be no contact with the commission, council, or staff, other than in writing, except

for information regarding status of the request, by any proponent or opponent. Staff may initiate contact for informational purposes. Proponents and opponents can speak at a commission hearing and at the council hearing;

3. That there be standards developed for the appropriate use of fee waivers on zoning issues and that all fee waivers be made public;
4. That individuals who represent a client for a fee in zoning matters shall register as a lobbyist.
5. The issue has been raised about extending the prescribed radius for notification of proposed zoning changes. This issue warrants further study.

### **C. Recommendations Regarding Discretionary Contracts Procedures**

These recommendations are as defined by “Contractual Risk Criteria,” used by staff as part of the Electronic Contract Management System (ECMS), which is part of the new “Contracting Policy and Process Manual.” These first three recommendations apply to “high-risk” discretionary contracts:

1. That staff involve city councilmembers at the beginning of the process to determine the criteria and weight to be used in the evaluation of various categories of Requests for a Proposal (RFP) and Requests for Qualifications (RFQ). Better communication is needed now between staff and council;
2. That the responses to an RFP or RFQ be evaluated by people with expertise in the subject matter;
3. That deliberations by the panel evaluating an RFP and RFQ be open to the public for observation purposes.

The following recommendations apply to all RFP’s and RFQ’s:

4. That the city continue to rigorously pursue the implementation of recommendations of the BIH Contract Review Committee;

5. That the city continue to rigorously pursue the implementation and independent evaluation of the effectiveness of the Electronic Contract Management System (ECMS);
6. That, other than for informational purposes to be delineated in the standards in Recommendation No.1 under “**Overarching to Zoning and Discretionary Contracts**,” advocates or their agents wishing to do business with the city, shall not contact a city official or a city employee about the RFP or RFQ after the closing date of the RFP or RFQ;
7. That all contacts by registered lobbyists to councilmembers or their staff and the city manager’s staff, for contracts under active consideration, shall be part of the public record.

#### **D. Recommendation For Notification Procedures**

The City Council should modify its procedures so that public input is received prior to the drafting of an ordinance that has a major public impact. This is a procedure used in the Texas Legislature and in Congress at the Federal level.

### **VIII. Campaign Finance Reform Subcommittee**

This Committee was formed largely in response to the crisis of public faith in city government resulting from allegations of financial misconduct by elected officials. This subcommittee believes there is a public perception that a relationship exists between substantial contributions and access to elected officials.

What follows below are preliminary recommendations and concepts concerning campaign finance reform that this subcommittee believes will promote a more level playing field and diminish the perceived or actual connection between campaign contributions and influence. The recommendations are derived from research, interviews with a broad array of interested citizens and comments by the citizenry made before the Mayor’s Committee on Integrity and Trust at the four Town Hall meetings on January 7 and January 8, 2003.

## **A. Proposed Regulations Regarding Campaign Contributions.**

**1) Limitation of Contributions to Candidates for Mayor or Council.** A candidate for District Office on the City Council may not accept more than \$500 from any individual or single entity (e.g. Political Action Committee) per election cycle. This limitation on contributions means that a candidate may accept a maximum of \$500 for the general election, currently conducted every two years, plus a maximum of \$500 during and for a runoff election, should one occur.

A candidate for Mayor may not accept more than \$1000 from any individual or single entity (e.g. Political Action Committee) per election cycle. This limitation on contributions means that a candidate may accept a maximum of \$1000 for the general election from any individual or single entity, plus a maximum of another \$1000 during and for a runoff election, should one occur.

***Rationale:*** *The Committee had to balance factors that would stop large contributions from generating undue influence in governance against the need for candidates to communicate their messages to the public in districts with more than 100,000 residents. Every person testifying before the Campaign Finance Reform Subcommittee supported campaign contribution limits. Adopting a contribution limit serves many purposes associated with integrity and trust in governance. It limits the influence of money on access to government officials and governmental decision-making.*

*Given past experience, having a limit will foreclose the possibility that an elected member of or candidate for council could contend that an amount of money given to her or him above \$500 was a campaign or officeholder-account contribution and that she or he simply forgot to report during the relevant reporting period, or that it was an accounting error. The committee felt that \$500 was an appropriate limit that would not impede the communication of a candidate's campaign message, while maintaining appropriate integrity in the electoral and governing process.*

*The full Committee was somewhat divided between recommending the \$500 amount for both district and mayoral candidates or increasing the amount to \$1000 for mayoral candidates. Based on a one-vote margin, the Committee decided that a higher limit was*

*necessary for mayoral candidates. The vast majority of the Committee believed that the limit should be no higher than \$1000.*

**2) “Pay-to-Play” Prohibition.** Any person or company official, acting as a legal signatory for a proposed contractual relationship that applies for a “high-risk” discretionary contract, as defined by the contractual risk criteria<sup>1</sup>, may not make a campaign or other contribution to any councilmember or candidate at any time from the start of the design of an RFP through the contract award.

If the signatory legally entering the contract has made such a contribution, the city may not award the contract to that contributor’s business entity. Any such signatory who receives a contract falling within the contractual risk criteria may not make a campaign or other contribution to any councilmember or candidate except to a candidate for whom that individual may vote in the next election and runoff cycle.

***Rationale:*** *This recommendation addresses the substance and appearance of integrity concerning the relationship between campaign contributions and decisions by elected officials.*

**3) Minimum Age for Contributors.** A candidate for Mayor or City Council may not accept contributions from persons less than 18 years of age.

***Rationale:*** *The purpose of this recommendation is to prohibit the circumvention of the \$500 and \$1000 campaign contribution limits by individuals passing money above the limits to candidates through*

---

<sup>1</sup> Contractual Risk Criteria:

- (1) Contract Value. Over the life of the contract, will the contract value exceed \$1 million?
- (2) Procurement Method. If the contract value exceeds \$25,000, will agreement be obtained without a competitive solicitation?
- (3) Contract Complexity. Is the service/good of a highly complex nature, or will the contract items be non-standard?
- (4) Community Interest. Will there be a high level of community or other exceptional interest in this agreement?

*their children. Since spouses or adult family members can differ on candidate preferences, the Committee did not recommend a limit for family contributions since we believe that would constitute unfair and unconstitutional practice.*

**4) In-Kind Contributions.** PACS, commercial entities, or campaign vendors cannot give “in-kind” contributions with a commercial value to candidates or officeholders beyond the \$500 or \$1000 limitations. Individuals may donate their personal time as volunteers to a campaign without reporting requirements.

**5) Limits on Candidate Loans to Campaign Account.**

(a) A candidate for Mayor or City Council may not accept or deposit any *loan* from oneself or any person, persons, entity or entities for more than \$5000 total (meaning cumulative total from one or all combined loans) into the campaign account during any election cycle.

(b) Candidates must repay any loan, operating under the normal rules of campaign finance, before the close of December 31 following the election cycle in which the candidate accepted and deposited the loan. This applies to candidates whether winning or losing the election. If the candidate fails to repay such loan within that timeframe, it becomes a donation to the campaign. Even when a candidate repays the amount of a loan or loans, that individual may not accept another loan if they have already accepted the maximum \$5000 amount for that election cycle. Any *other* amount deposited to a campaign account must be a donation. No loan may be made in cash.

***Rationale:*** Campaign finance rules cannot prohibit a wealthy candidate from donating money to their own campaign due to constitutional issues presently. Prohibiting candidates and their supporters from making loans to campaign coffers of more than \$5,000 will eliminate the practice by which massive loans ranging into the tens and hundreds of thousands of dollars are made to campaigns, influencing the elections, which then, after victory, are repaid to the candidate or supporters.



*The rule above should have a chilling effect on wealthy candidates or individuals skewing elections through loans at no cost to themselves ultimately. This should bar the practice of making a loan to oneself, influencing the election, then repaying it after victory.*

**6) No cash contributions.** A candidate for Mayor or City Council may not accept campaign contribution or officeholder-account contribution in cash, including tickets to events.

***Rationale:*** *Allowing cash contributions could permit large amounts of money to come into campaigns under the disclosure radar screen. For example, an individual may purchase 400 tickets to an event for \$25 in cash each and then distribute the tickets as complimentary. This could result in a \$10,000 cash contribution by the ticket buyer that goes unreported by the candidate.*

**7) Single Campaign Account Rule.** A candidate for Mayor or City Council must deposit each and every campaign contribution into one and only one specified bank account. Candidates must use this one account for all campaign deposits and expenditures.

***Rationale:*** *The Committee believes this is essential for monitoring, clean accounting practices, and campaign finance transparency.*

**8) Bank Statements to be Provided to Enforcement Authority.** A candidate for Mayor or City Council or the campaign treasurer must send a campaign account statement directly to the designated campaign finance enforcement entity twice a month from February 1 through June 30 every election year. At all other times, account statements must be provided monthly. The candidate or campaign treasurer must make these arrangements at the time of the first deposit or earlier. See notes on independent auditor recommendation below.

***Rationale:*** *This requirement will facilitate truth-in-finance monitoring and disclosure.*

**9) Prohibition on Fund Transfers.** A Candidate for Mayor or City Council may not transfer campaign funds into the campaign account from any other account or fund, except as allowed under the rules

regulating campaign finance for candidates. ["Grandparent" Clause: Persons with established campaign accounts before the date the new regulations go into effect can transfer dollars into the official campaign account only within dollar limitations described above and only in compliance with the new rules.]

***Rationale:*** *This rule promotes campaign-finance integrity, decreases campaign-finance hide-and-seek games, and facilitates disclosure compliance and monitoring. The grandparent rule attempts to decrease injury to those candidates with existing campaign accounts accumulated before the new rules come into effect. This would apply only once.*

**10) Time Limitation to Accept Donations.** A candidate for Mayor or City Council may neither accept nor deposit campaign contributions past 5 p.m. on the Monday preceding the election day (not early voting). During the runoff election, a candidate for Mayor or City Council may neither accept nor deposit contributions past 5 p.m. on the Wednesday preceding the election day.

***Rationale:*** *This provision would ensure that the voting public and the media would have meaningful access to final information about contributions before the election takes place.*

**11) PAC's Must Register Campaign Expenditures.** All PACs or groups spending money on campaign activity or advertising associated with a city election, including referenda, (or specially designated City Council agenda item), must register with the city, reporting the financial contributions to and expenditures for this campaign. The sponsor of any advertising relating to an election, or candidate must identify itself in clear and visible language.

**12) Electronic Campaign Finance Filing.** A candidate for Mayor or City Council must file and update electronic reports with the designated enforcement entity for campaign finance compliance. The e-reports must identify deposited campaign contributions and current campaign expenditures. E-reports must contain all designated information set out below, in designated spreadsheet form, entered into any acceptable spreadsheet or word processing program prescribed by or provided through the city. The city will post the candidate's financial disclosure e-reports through the city's

Elections Website. Candidates will still have to submit written, hard copy reports to the city in accordance with state election law. The electronic filing will provide a different, ongoing disclosure function.

A candidate for Mayor or City Council must e-report a campaign contribution within 72 hours of its deposit into the candidate's one campaign account. Exception: In runoff elections, the final campaign finance report must be submitted by Thursday evening at 6 p.m. preceding the runoff election day.

The e-report must list the name, address, principal occupation, and principal employer of the contributor. Candidates should not deposit any contribution without obtaining this information for purposes of reporting.

***Rationale:*** *Electronic filing allows citizens and the government to monitor contributions (and expenditures) easily and consistently. The system above will promote transparency in the handling of money. The passage of money between candidates or officeholders and financiers of campaigns, operating in the past manner, has led to distrust, injury to governmental reputation, and illegalities. This system will help to illuminate most aspects of money transfers to and from politicians. City officials should work with state officials to get authorization to accept campaign finance information electronically.*

**13) City Website Should Include Election and Contribution Information.** The city should create a Website dedicated to elections information and activities linked from the city's Internet home page. This site would contain information about filing, training sessions, deadlines, rules, contribution and expenditure reports of candidates, and any negative findings of or sanctions imposed by the enforcement entity for campaign finance compliance.

**14) Auditor to Review Finance Reports.** This subcommittee believes that these municipal campaign finance regulations should be enforced by a Citizen Trustee or Public Advocate's Office. Until a charter review committee reviews the matter of establishing such an enforcement entity, the Committee recommends that an outside, independent auditor, named by the City Manager, review campaign finance reports and register violations or issues associated with reporting and finance rules. The auditor should post findings on the

city campaign finance reports/ethics Website for public scrutiny and deliver a copy to the City's Ethics Review Board for corrective action, enforcement or prosecution.

***Rationale:*** *The current system cries out for an enforcement agent. Currently, the finance reports are filed without extensive scrutiny. This component is essential to systemic reform.*

**B. Long-Term Recommendations.** In addition to the discussion of charter reform issues set out in above in Section III of this report regarding Long-Term Recommendations, this subcommittee would like to emphasize that any future charter reform commission should give serious consideration to the creation of an independently elected office of Citizens' Trustee or Public Advocate, with salary, providing to that office the authority to conduct research, formulate initiatives, audit and administratively enforce the municipal campaign finance regulations.

Further, while the Committee has no actionable recommendation on term limits in this report, the city's term limits provision was found to amplify the role of money and influence in campaigns. Needed name recognition for new candidates and seeking funds for the reelection of incumbents is a continuous process given San Antonio's term limits provision. Many citizens commented on the relationship of term limits and campaign finance reform. In one credible study, term limits were also found to depress voter turnout in San Antonio as well. This issue deserves further study by a charter revision commission.

Also, this subcommittee heard extensive testimony and reviewed many articles and letters regarding the subject of publicly financed elections. The issue is complex and there was not agreement in interviews and in public hearings on this issue. However, advocates of publicly financed elections provided credible evidence of the success of such programs in other cities in the United States. Any future charter revision commission should study and consider this issue in greater depth.

## **IX. Conclusion**

Finally, as we submit this report, the members of the Mayor's Committee on Integrity and Trust in Local Government wish to express our appreciation to Mayor Edward Garza for the opportunity we have had to

address these important issues. It is our hope that the recommendations we are submitting will be received and acted upon by the City Council, and that these recommendations may begin a process of restoration of public trust in local government.

Submitted by the Committee on Integrity and Trust in Local Government  
this 29<sup>th</sup> day of January 2003.

Lila Cockrell  
Chair

Dr. Charles Cotrell  
Vice Chair

General William V. McBride, U.S.A.F. (Ret)  
Ethics Code Review Subcommittee  
Coordinator

Diane Cortez  
Ethics Code Review Subcommittee

Bishop Patrick Zurek  
Ethics Code Review Subcommittee

Dr. Tessa Martinez Pollack  
Discretionary Contracts and Zoning Subcommittee  
Coordinator

Bob Ross  
Discretionary Contracts and Zoning Subcommittee

Carlos Montemayor  
Discretionary Contracts and Zoning Subcommittee

Deanna Frisk  
Discretionary Contracts and Zoning Subcommittee

Dr. Charles Cotrell  
Campaign Finance Subcommittee  
Coordinator

Dr. Richard Gambitta  
Campaign Finance Subcommittee

Dr. Morris Stribling, D.P.M.  
Campaign Finance Subcommittee

Wayne Alexander  
Campaign Finance Subcommittee

Dr. Ana M. “Cha” Guzman  
Character Education Subcommittee  
Coordinator

Reverend Kenneth Allen  
Character Education Subcommittee

Reverend Charles Johnson  
Character Education Subcommittee